



that has not been formally converted into a motion for summary judgment. Accordingly, voluntary dismissal is available to plaintiff.

When deciding a motion for voluntary dismissal, a court must consider, *inter alia*, the opposing party's efforts and expense, any excessive delay or lack of diligence on the part of the plaintiff, and whether the explanation for dismissal is sufficient. *Nesari v. Taylor*, 806 F. Supp.2d 848, 861 (E.D.Va. 2011). Here, defendants admit that the case is at an early stage. Plaintiff's explanation for dismissal—that he has liver cancer—is legitimate. Having considered the relevant factors, that defendants admit the case is at an early stage and do not appear to oppose plaintiff's motion, and that no counterclaim, answer, or motion for summary judgment has been filed, the Court ALLOWS plaintiff's motion to dismiss. [DE 20]. Rather than impose limitations or extension on how and when plaintiff can re-file this suit, the Court instead notes that the substantive law of the forum jurisdiction will control any re-filed action.

Accordingly, this matter is hereby DISMISSED WITHOUT PREJUDICE pursuant to Rule 41(a)(2) of the Federal Rules of Civil Procedure. Defendants' motion to dismiss [DE 17] is DENIED AS MOOT.

SO ORDERED, this the 14 day of August, 2015.

  
TERRENCE W. BOYLE  
UNITED STATES DISTRICT JUDGE